

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

JS 6

Case No. EDCV 11-280 DSF (DTBx)

Date 2/24/11

Title CitiMortgage, Inc. v. Salvador A. Avalos, Jr., et al.

Present: The
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order REMANDING Case to Superior Court of California, County of Riverside

On January 13, 2011, Defendants removed this unlawful detainer case. On January 26, 2011, this Court remanded the action to state court for lack of subject matter jurisdiction. Defendants have again removed the case on the same theory of jurisdiction as was presented in the first removal – civil rights removal under 28 U.S.C. § 1443.

As stated in the Court’s prior remand order, removal under § 1443(1) requires “[f]irst, [that] the [defendants] must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment protecting equal racial civil rights [and] [s]econd, that [the defendants] must assert that the state courts will not enforce that right, and that allegation must be supported by reference to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.” Patel v. Del Taco, Inc., 446 F.3d 996, 999 (9th Cir. 2006) (quoting California v. Sandoval, 434 F.2d 635, 636 (9th Cir.1970)). Defendants appear to believe that they will not receive an adequate hearing in unlawful detainer court. However, none of their mostly unspecific concerns implicates an equal protection right – racial or otherwise. And, even assuming that unlawful detainer courts have sometimes not provided full due process rights, Plaintiffs completely fail to “refer[] to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.”

This matter is REMANDED to the Superior Court of California, County of Riverside. Any further removal is likely to result in sanctions.

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IT IS SO ORDERED.